

Subject: Re: Lowe v. CSXT

Date: Tuesday, February 4, 2020 at 12:22:37 AM Eastern Standard Time

From: Edward Cook

To: Mary Taylor Gallagher

CC: Lindsey Rodgers, Bill Leverett (bleverett@cookpclaw.com), Chris Cardwell, Grayson Papa

Mary Taylor:

I'm sorry but Plaintiff will not enter into an agreed protective order on discovery and witnesses. The request is ridiculous. It is not necessary and the scope is extremely excessive. I believe you know this is true as you could have made this request well before our notification on Friday that we will be proceeding with motions.

Plaintiff will never agree to any broad based limit on discovery disclosures. Moreover, we are certain Judge Steger will enter a proper discovery order. Further, CSXT can answer the discovery now, There is no prohibition-only a disingenuous argument made in an effort to hide CSXT's egregious actions. We will seek court intervention.

Make no mistake, I understand CSXT's position and defense in this case and I am certain the facts at the end of the day will inure to the benefit of my clients. CSXT's efforts to silence the discovery activity in this case notwithstanding.

The LocoCam issue is in no way a similar issue. The NTSB and its lawyers do not rule nor decide for the Federal Judges assigned to this case.

On the January 23rd call, you indicated to Judge Steger that you would file a motion for protective order (in fact, I believe you indicated one was essentially prepared) yet you engage in additional tactics to delay and obstruct discovery.

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On Feb 3, 2020, at 11:09 PM, Mary Taylor Gallagher <mtgallagher@gsrm.com> wrote:

Ed,

Apparently I failed in drafting the proposed order, which I modeled after the protective order Lindsey sent for the LocoCam. The intent is to allow CSXT to answer all discovery now. Both parties just have to agree to limit disclosure of information to parties, attorneys, fact witnesses, and

experts, both testifying and consulting. If there's anyone else that you think you need to share information with for the purposes of this litigation, I'll be glad to add them to the list. I've spoken to the NTSB and am confident they will agree to allow us to move forward with discovery with no limitations if we have a reasonable order in place that prevents the public disclosure of information, which is what I tried to draft.

Mary Taylor

On Feb 3, 2020, at 8:54 PM, Edward Cook <ecook@cookpclaw.com> wrote:

Mary Taylor: We decline the offer to enter into any agreed protective order. It is patently absurd. We have been waiting patiently for over 10 days for the Motion for Protective Order you advised Judge Steger would be forthcoming. We will contact the court for a status call. Additionally, we also be filing a motion to compel and for sanctions. You have had plenty of time and opportunity to file the promised motion for protective order with Judge Steger.

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On Feb 3, 2020, at 9:09 PM, Mary Taylor Gallagher
<mtgallagher@gsrm.com> wrote:

Lindsey,

Following our call with Magistrate Judge Steger, I have been in contact with Benjamin Allen about reaching an agreement with the NTSB that would avoid the need for waiting on the court to rule on the motion for protective order or for the NTSB to intervene. Because the ICC has not yet responded to Mr. Allen's request to identify the discovery requests that the NTSB asserts are covered by Section 831.13, I drafted the attached protective order to cover all information disclosed by CSXT in discovery. Before I send the attached order to Mr. Allen for his approval, please review it and let

me know if you have any changes or concerns.

Thanks,
Mary Taylor

Mary Taylor Gallagher

Gullett Sanford Robinson & Martin PLLC

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